
Government of the District of Columbia



**Office of the Deputy Mayor for Public Safety
and Justice**

Testimony of
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***“Public Hearing on Bill 16-242, the Homeland
Security, Risk Reduction, and Preparedness Act of
2005”***

Committee on the Judiciary
Phil Mendelson, Chair
Council of the District of Columbia

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Good Morning Chairperson Mendelson and members of the Committee. My name is Edward Reiskin and I am the Deputy Mayor for Public Safety and Justice for the District of Columbia. It is my pleasure to testify before you today on Bill 16-252, the “Homeland Security, Risk Reduction, and Preparedness Act of 2005.” As Councilmember Patterson correctly noted last month at the Committee’s hearing on homeland security grant spending, the Council and the Mayor have stood shoulder to shoulder when it comes to ensuring the security of the District since September 11th, and we approach today’s hearing with the same agenda as the Council – to bolster the security of the District of Columbia for all of its residents and visitors.

My testimony today will address each title of the legislation. Before doing so, however, in order to provide context for today’s discussion, I would like to briefly discuss the progress we have made since 2001 and the evolving circumstances that present the opportunity before us today to create new mechanisms for strengthening the District’s security.

The District has come a long way since 2001. Multi-agency and multi-organization efforts, such as emergency operations plans and communications systems, combined with the accomplishments of individual agencies, have placed the District at the forefront of emergency preparedness. The District’s achievements in the field, including unprecedented coordination across agencies and jurisdictions at all levels, allowed it to become one of the first two EMAP accredited jurisdictions in the nation. This accomplishment is a public recognition of the District’s level of emergency preparedness.

Our Office of Homeland Security, within the Office of the Deputy Mayor for Public Safety and Justice, has leveraged a massive influx of resources from the Department of Homeland Security over the past three years to develop and implement a homeland security strategy for the District; of these funds, \$52 million has been targeted directly to the District for enhancing emergency preparedness and response associated with terrorism. Those funds followed the initial \$168 million directly appropriated from Congress following the 9/11 tragedy. This tremendous influx of resources has supported equipment, planning, training, and exercise needs associated with emergency preparedness and Homeland Security. I continue to work to ensure that spending associated with these resources is efficient and effective to ensure that the maximum benefit is derived.

And while the government is better trained and equipped, our residents are also more aware and more prepared since 2001. Residents are more aware of emergencies in their neighborhoods as a result of the Alert DC notification system introduced by the Emergency Management Agency in 2004 and by the Emergency Information Center (EIC) website that won the Public Technology Institute’s 2004 Solutions Award in the Public Safety category. I, again, encourage all residents to join the more than 14,500 current subscribers by registering on-line at alert.dc.gov to receive emergency messages on any text capable device – cell phone, pager, computer email and handheld personal digital assistant.

Residents are more prepared as a result of community emergency management plans that have been developed for each of the District’s 39 neighborhood clusters. Since September 2002 when the plans were developed, the Emergency Management Agency has held numerous

community training activities, including community table-top exercises for every cluster, to educate residents about the plans and, equally as important, to receive community feedback about the plans' accuracy and efficacy.

With these and many other achievements behind us, I commend the Council for initiating this discussion on the next major phase of the District's homeland security operations. With our basic capabilities now in place, we have the opportunity and the need to approach this complex set of issues more strategically. We need a framework within which we can better manage our homeland security activities. We need to come into compliance with new federal requirements. We need to better coordinate our equipment, planning, training, and exercise efforts both within the District government and between our government and our federal, state, and regional partners. In this light, the Mayor, the City Administrator, and I believe that today's bill moves us in the right direction.

TITLE I

As previously stated, I am here to offer comments on specific provisions of the bill and will do so in order, beginning with the first title, "Establishing a Homeland Security Program." I concur with the findings in Section 101 on the whole, namely our status as a high-threat target city and our responsibility to prevent terrorist attacks or to mitigate and respond to such an attack if one were to occur.

In some cases, these findings are consistent with current practices. For example, Alert DC is providing "timely and accurate information before, during, and after times of emergency."¹ Likewise, the Metropolitan Police Department's Special Operations Division (SOD) currently conducts risk and vulnerability identification "expeditiously and comprehensively."² In other cases, the findings are consistent with new federal requirements, such as the need for DC to have capabilities commensurate with our status as a high-threat target city.³ Our first responders will indeed need to have the capabilities associated with the Target Capabilities List (TCL) and the Unified Task List (UTL) under new federal requirements.

In terms of the office in which the authority should rest to establish the homeland security program under Section 103, I recommend that the Mayor and not the agency director of the proposed Emergency Management and Homeland Security Agency (EMHSA) retain this responsibility for several reasons. A program of this importance with such a direct impact on the health and safety of District residents and visitors should be managed at the highest level of the organization. Additionally, homeland security is not easily compartmentalized and the activities that fall into this category are too cross-cutting to be housed in one agency. Organizationally, guidance and direction will be more effective coming from the top of the organization, and responsibility will be better matched to authority.

¹ § 101 (a) (2)

² § 101 (a) (4)

³ § 101 (a) (1)

As discussed at length in other hearings on this subject, the State Administrative Agency (SAA) for homeland security grants is in the Executive Office of the Mayor – today, the Office of Homeland Security within my office. By placing this role under the Mayor’s direct authority we ensure the unbiased determination of the District’s share of federal homeland security grant funds, a determination that would be compromised if placed within a front-line agency eligible to receive those very funds. In sum, elements in this section may be delegated to specific agencies, but management and accountability should continue to reside with the Mayor.

Although the term “private entities” is defined later in the bill,⁴ references to the term in this section should be accompanied by a definition. Likewise, I would recommend that “private and public stakeholders,” terms used throughout, be defined here.

Generally, the mission and responsibilities of the homeland security program identified in Section 103 are activities that should be done to strengthen our existing program. Since taking this office, I have identified the need to create a framework for our program. To that end, I will facilitate the development a new homeland security strategic plan for the District. This plan, which will link to the regional strategic plan currently under development, will serve as the guiding document to capture the necessary elements of our homeland security activities, which are carried out daily by agencies across the government, by residents, and by the private sector. The plan will provide the frame for accomplishing many if not all of the bill’s requirements for the development of readiness metrics, standards, impact studies, baseline assessments, and reports.

I do caution that we will have to assess the various requirements of this legislation as well as new federal requirements with regard to scope, cost, and timing. We want to ensure that we proceed in a rational manner, from both a funding and logical perspective. As current funds have all been allocated, some of this work may require some reprogramming of funds.

The threat and vulnerability assessments required as part of this legislation will be essential to our planning efforts. They will help us with the development of policy and the allocation of resources. As important they will be to us in our efforts to prevent, protect against, respond to, and recover from terrorist or natural events, they would be similarly valuable to those wanting to thwart those efforts and to harm to our city. We therefore must ensure that this information must be used extremely carefully. The assessment required in Section 103 (d) (3), for example, should not be part of a report that will become public information. Full public disclosure could provide a roadmap for would-be terrorists. We must be sensitive to the need to distinguish between what the public has a right or need to know and what other stakeholders need to know in order to prepare for potential threats. We therefore need to establish parameters for the sharing of this information and establish sanctions for the unauthorized sharing of it.

Allow me to suggest that Section 103 (a) (9) be rephrased to include readiness metrics and quantifiable performance measures for the categories of prevention, protection, recovery, and

⁴ §501 (2)

response instead of the categories listed in subparagraph (4), as these proposed categories align with the outcomes we need to achieve, as opposed to the means of achieving them.

The intelligence sharing requirements of Section 104 are very positive. In fact, better information sharing is something that we're already looking at to ensure that agencies outside of law enforcement are both consumers and producers of intelligence, recognizing that many agencies besides police have eyes and ears on the street. As the bill indicates, the private sector needs to be better integrated in this area as well. We are considering the adoption of the national model of a state fusion center to accomplish better intelligence sharing and build non-police capability to support these requirements. This integrated system for local information sharing will better enable us to link with our federal partners, though as it stands now, our linkages with the federal government are strong in this area, as we work closely with the FBI and Department of Homeland Security at both the local and national levels on a daily basis.

Our integration of other District and private entities into our intelligence sharing model would provide the appropriate linkage point for those entities. We would not have the authority nor the need to place those entities into federal or regional analysis centers. Our center will link with federal and regional centers to ensure the timely flow of relevant information.

Consistent with the requirements in Section 105, the Mayor's commitment to resident involvement in emergency preparedness is evident through the many initiatives of the Emergency Management Agency (EMA) and the DC Citizen Corps operated by ServeDC. EMA regularly engages in community outreach and emergency preparedness activities to share information and empower residents and businesses on how to best prepare for and respond to emergencies. Within the last year the Hazard Mitigation program of EMA participated in community events such as the NBC Channel 4 Health and Fitness Expo and the Fall Energy Expo and Joint Utility Discount Day of the Office of the People's Counsel. Additionally, EMA has directly empowered residents through recent emergency management community tabletop exercises in all eight wards. EMA designed these exercises to test and update its 39 neighborhood cluster emergency management plans. Residents had the opportunity to practice their response during the first 72 hours after an emergency using a neighborhood cluster plan tailored to the unique needs of their community.

In addition to individual and community preparedness, EMA has empowered families with information to prepare themselves in case of an emergency. Over a million copies of the Family Preparedness Guide have been distributed throughout the District and in several languages. The guide is available at alert.dc.gov using the Preparedness Resources link and includes details on how to create a family Go-kit.

DC Citizen Corps provides volunteer opportunities for resident volunteers, local leaders and first responder agency personnel to engage in a greater level of involvement in emergency preparedness activities. Residents who participate in the Citizens Corps receive training in emergency preparedness, hazard mitigation and response, and crime prevention. The intention of this program is to create well-trained, prepared residents who can assist themselves and their community so that first responders can concentrate on responding to the most critical needs. In

August 2004, DC Citizen Corps held the first Neighborhood Corps Forum. Neighborhood Corps provides a structure for trained volunteers to mobilize and respond to emergencies at the neighborhood level. Drawing on their collective knowledge and diverse skill sets, DC Citizen Corps trained volunteers to work together to form individual Neighborhood Corps in their communities. At the forum, attended by the Mayor, volunteers met to discuss emergency planning in their communities and begin to organize in their communities.

The Citizen Corps Council, established by Executive Order, serves as an advisory board to DC Citizen Corps. DC Citizen Corps Council members include leaders from emergency management, law enforcement, fire and emergency medical services, volunteer organizations active in disasters, business and faith-based organizations, and other relevant groups such as schools, and health care institutions. The Council matches the needs of first responders with the skills and abilities of volunteers to help protect families, homes, and communities from the threats of terrorism, crime, and disasters and educates the public on safety, helps residents protect themselves from harm, and teaches citizens what to do in the event of a crisis.

We support the intent behind the creation of a Citizens Involvement Advisory Group, as directed in Section 105, and believe that we can leverage existing activities under EMA to fulfill this provision. At the time that EMA was developing the text alert portion of Alert DC, the agency trained ANC Commissioners as senders of alerts for their community. We can build upon this existing partnership with ANC Commissioners to bring in other community leaders and businesses as leaders in community emergency preparedness.

In addition to developing well-prepared residents, training for District Government employees is indeed a critical element to improving security in the District, as recognized in Section 106. I am happy to report that, under the leadership of EMA, the District has done an outstanding job in providing numerous opportunities for emergency preparedness training for sworn and civilian employees. In 2004 over 2,000 District employees were trained in areas such as Response to Terrorist Bombings and Weapons of Mass Destruction Basic Awareness. Three hundred employees representing the 42 signatory agencies of the District Response Plan have been trained as Emergency Liaison Officers. These employees report to the EMA Emergency Operations Center in the event of an emergency or disaster. First-responder agencies in particular have taken ample advantage of these training opportunities. By the end of 2004, ninety percent of the Fire and Emergency Medical Services Department's Special Operations Division was certified as hazardous materials technicians.

This record of achievement in training District employees suggests that a stand-alone legislative requirement, independent of recognized needs, is not needed. Instead, strategic planning and needs analysis should drive training as well as planning, equipment and other related requirements. EMA is the appropriate agency to coordinate this function. If this section remains part of the bill, I suggest that the list of agencies subject to its provisions be defined by the Mayor.

Turning to the provision of large building security, infrastructure protection is a critical element of our preparedness efforts. While the District government agencies will provide guidance for

these efforts, we expect that the private sector will be largely responsible for its implementation. Based on our analysis of the building security requirements in Section 107, we believe that the legislation may create a new and significant regulatory and enforcement framework, the scope of which would depend upon how the “highest risk zone” is defined. I suggest that, rather than establishing a building security program through this bill, we should use the output of our threat and vulnerability assessment to determine the need for and requirements of such a program.

Emergency preparedness and training are only as valuable as their proven effectiveness for the District in responding to an emergency situation. Tabletop and full-scale exercises, the subject of Section 109, are critical to demonstrating that these efforts will enable the District to respond quickly and effectively to disasters and save lives and property. In addition to conducting tabletop exercises for District residents, as I noted earlier, EMA coordinates several such exercises annually for District, local and federal government officials. Tabletop exercises play a key role in preparing for full-scale exercises in the field and in testing emergency procedures.

EMA coordinated or participated in seven such exercises during Fiscal Year 2004, including a September exercise of communications and coordination among the 33 operations centers across the National Capital Region (NCR). Full-scale exercises test individual and inter-agency response, communications and medical procedures, equipment operations, and interactions with federal, medical and other partners. EMA conducted full field exercises during Fiscal Year 2004 that addressed responses to a bio-terrorism incident, river crossings, and radiological inhalation hazards.

Tabletop and full-scale exercises require that a foundation of partnership among District and other agencies be in place. We already have many such agreements in place that provide for regional mutual support and response for a variety of emergencies, consistent with Section 109. The District is a signatory of the Emergency Management Assistance Compact (EMAC), which was a part of anti-terrorism legislation following September 11th. EMAC is a Memorandum of Understanding among several states to provide resources upon the declaration of a Presidential Emergency or Disaster.

Through the Metropolitan Washington Council of Governments, the District is a participant in a number of regional contingency plans and mutual aid agreements. These agreements provide for the interjurisdictional provision of police, fire and rescue and ambulance service; fire and rescue emergency procedures for METRO Rail; regional emergency alert plans for power, natural gas and water supplies; medical strike team operations; and health systems response to a bioevent. We’re moving towards better coordination on communications throughout the NCR. Building upon its success with Alert DC, EMA is coordinating efforts to develop regional emergency text and voice messaging systems with all NCR jurisdictions. The NCR is in the early stages of creating a private, secure, broad-band fiber-optic network connecting all NCR Emergency Operations Centers. We also are developing a Concept of Operations with federal, state and local agencies to guide data-sharing across agencies. And as we continue to develop our intelligence sharing capabilities, we will execute additional memoranda of understanding as needed to ensure the free-flow of critical information.

TITLE II

I turn now to Title II of the legislation that calls for the establishment of a Homeland Security Commission. A commission and the expertise in homeland security its members would bring could add significant value in guiding the District's efforts in this area. This value can best be demonstrated through the Commission providing a high-level review of government activities and recommendations for improvement. For example, greater benefit would come from Commission members evaluating how well a security improvement strategy addresses identified needs, rather than designing the strategy itself. The annual report required in the legislation will be a useful tool for the Commission to use in measuring our progress in protecting the District and in highlighting those areas where we must do better. We are committed to completing a training assessment as part of the annual report, in which gaps in training will already have been identified. A good role for the Commission might be review of our training plan to address those gaps.

While the Administration supports the creation of a Commission, there are important issues to consider in developing its mandate. Section 202 calls for the Commission to publicly release a summary of sensitive security information when that information is "vital for public assessment, public policy discussion, and personal protection."⁵ While I recognize the need to make available information that may be of service to the public, it is very important that the Commission is held accountable for the protection of any sensitive information it receives. We cannot undermine the critical flow of sensitive data among agencies nor ongoing investigations and preparations.

In laying out the responsibilities of the Commission we also should ensure that these responsibilities do not replicate existing expertise or activity within the District. In some cases, as the legislation reads, the Commission may spend its time reviewing assessments that have been completed by other experts. I think its time would be better spent making recommendations to the District based on its evaluation of our plans to address established needs.

TITLE III

Incidents where hazardous materials are spilled in the District not only pose a potential threat to the public but also incur sometimes unreimbursed costs for District agencies that respond. Title III of the legislation addresses this problem by holding any person who is responsible for such an incident strictly liable for the costs incurred by those agencies in response to the incident. Generally speaking, I agree that it is important to hold those who willingly or accidentally do harm to our communities accountable. The Office of the Attorney General has submitted a more thorough analysis of this title in writing, offering some suggestions for clarifying and improving the language to better meet the title's intent.

I note that the term "ultrahazardous" used in this title to describe materials for which carriers would be held strictly liable should be replaced by the term "extremely hazardous" in accordance

⁵ §202 (3)

with the U.S. EPA's National Contingency Plan. Also, if it has not been considered by the sponsors of this bill, I recommend creating a special account or fund, such as an agency or O-type account, to capture proceeds from Title III that would go back to agencies as a reimbursement for funds expended in the remediation and cleanup of hazardous materials rather than returning the entire proceeds to the General Fund.

TITLE IV

Title IV of the legislation gives policy direction and sets priorities in addressing the homeland security needs of the District. The shipment of cargo containers by truck and rail is one area of particular concern in Section 402 of this title. The bill requires that transporters report to the government any cargo container having no origin or destination within the District one day prior to actual transport.

In general we are in support of any legislation that will provide the means for us to better protect our city. The requirements in Section 402 would be quite onerous to place on every cargo container moving through the District, and the benefit of doing so is not entirely clear. We are happy to work with the Committee to better understand the threat that this section is intended to address and to reshape the language to better do so. It may be prudent to use the outcome of the threat and vulnerability assessment to guide us in this regard.

Section 403 of the bill identifies requirements for the District's public notification systems and establishes the position of Public Warning Official. As previously noted, we're already doing a lot in this area including through AlertDC, which uses both "multiple distribution channels" and "multiple technologies," as required in this section.⁶ It is still too early to comprehensively evaluate AlertDC's success since the text component only recently became available region-wide and the voice component has yet to become available to participating areas in the region, although roll-out is expected within the next few months. However, the District is committed to increasing subscribers through targeted advertising and marketing to make sure people are getting the message and will evaluate the system as it matures. The responsibilities laid out in this section would most likely be delegated to EMA.

The issue of outdoor warning systems, sometimes referred to as sirens, has been of ongoing interest to the Regional Emergency Preparedness Committee and the general public. While emergency management officials have generally been moving in the direction of new technologies to alert the public to emergencies and incidents, such as voice and text, many have suggested that sirens be revisited as an outdoor warning option. COG's Disaster and Emergency Management Officials Committee previously prepared a brief assessment of outdoor warning systems for Preparedness Committee review, which concluded that such a system will not be effective for such an urban area. Plans are currently in the works to fund a study to evaluate the use of outdoor warning systems in the region. The total cost of implementing and maintaining a system of sirens in the District is estimated at more than ten times the cost of systems that use newer technologies.

⁶ §403 (b) (1)

This section also requires the Public Warning Official to develop a “comprehensive strategic public warning and information plan.”⁷ While AlertDC is not currently part of the District Response Plan (DRP), I recommend that this requirement be integrated into either the DRP or the overall strategic plan, rather than creating a separate new plan solely for emergency notification.

For clarity, I suggest a word change in Section 403 (e) (9). Where this section refers to “[h]ow the community will communicate with residents, businesses and other institutions and organizations after the homeland security event,” it should perhaps read “government” instead of “community.”

I also note here that this section requires yet another advisory committee, established by the Public Warning Official, which “shall include representatives of major stakeholder groups.”⁸ We should consider whether this should be the same advisory committee as established in Title I, Section 105 (d), the Citizens Involvement Advisory Group, if not another existing group. Similarly, it would be best for the annual report required under this section to be part of the overall homeland security annual report, not a separate document.

TITLE V

Title V addresses the roles and responsibilities of private entities in the protection of the District from terrorist attacks and other events. It is certainly worthwhile to recognize the important role that private entities play in the security of our city. As with any regulatory framework, however, we must be cognizant of any competitive disadvantage in which local law may place District-based private entities. In this light, we should consider whether requirements for private entities in the highest risk zones, as are created in Section 506, might be better addressed through federal, nationwide legislation. Returning to the issue of timing, any determination of the need for these requirements should come after our threat and vulnerability analysis is complete.

To the extent possible and while still achieving the intended goals of our homeland security program, we should minimize the government’s active role in ensuring private entity security; rather, we should provide guidance and a means to address vulnerabilities not adequately addressed by the private sector. I defer to my colleagues from the Department of Insurance, Securities, and Banking to provide additional commentary on this subject.

In closing, I appreciate the serious efforts of the Committee in setting a positive course for the future of the District’s homeland security operations. I hope that I have been able to provide the Committee with specific information today that will allow us to be more strategic, come into compliance with new federal requirements, and improve coordination within DC Government and with all of our external partners.

⁷ §403 (e)

⁸ §403 (f) (2)